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OFFICE OF PETITIONS

In re Patent No. 7,158,354	:	
Saito et al.	:	DECISION FOR REQUEST
Issue Date: January 2, 2007	:	FOR RECONSIDERATION
Application No. 10/642,899	:	OF PATENT TERM ADJUSTMENT
Filed: August 18, 2003	:	
Attorney Docket No. 9281-4631	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT," filed February 7, 2007. Patentees request that the patent term adjustment indicated in the patent be corrected from five hundred forty-one (541) days to six hundred seventy-eight days (678).

The request for reconsideration of the patent term adjustment under 35 U.S.C. 1.705(d) is **DISMISSED**.

Patentees are given **TWO (2) MONTHS** from the mail date of this decision to respond. No extensions of time will be granted under 37 CFR 1.136.

On January 2, 2007, the above-identified application matured into U.S. Patent No. 7,158,354, with a patent term adjustment of 541 days. The instant request for reconsideration, filed February 7, 2007, was timely filed within two months of the date the patent issued. See § 1.705(d). Patentees assert that an additional period of adjustment should have been entered for the Office taking in excess of three years to issue the patent.

It is noted that 541 days were entered for Office delay in issuing the patent pursuant to 37 CFR 1.702(a)(1). This is the correct period of adjustment for the delay. It is further noted that the instant patent issued 3 years and 137 days after its filing date. However, any days of delay for Office issuance of the patent more than three years after the filing date of the application that overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. Further, in considering the overlap, the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether

periods of delay overlap under 35 U.S.C. 154(b)(2)(A). See 35 U.S.C. 154(b)(1)(B); 35 U.S.C. 145(b)(2)(A); and 37 CFR 1.703(f). In this instance, the period of delay of 137 days attributable to the delay in issuance of the patent overlaps with the adjustment of 541 days attributable to grounds specified in § 1.702(a)(1). Thus, no additional period of adjustment pursuant to § 1.702(b) was entered.

In view thereof, the patent term adjustment of 541 days indicated in the patent is correct.

The Office will charge the deposit account for \$200.00 fee set forth in 37 CFR 1.18(e), as requested. No additional fees are required.

Further correspondence with respect to this decision should be addressed as follows:

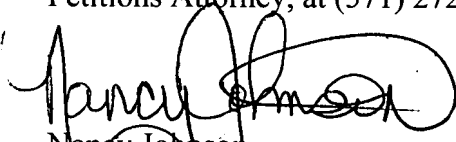
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Correspondence regarding this decision may also be filed through the Electronic Filing System of the USPTO.

Telephone inquiries regarding this decision may directed to Christina Tartera Donnell, Senior Petitions Attorney, at (571) 272-3211.


Nancy Johnson
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